UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/954,509	09/14/2001	Barry Omshehe	213306	8458

23460 7590 05/18/2006

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6780

EXAMINER	
SHINGLES, KRISTIE D	

ART UNIT	PAPER NUMBER
2141	

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/954,509	OMSHEHE ET AL.	
	Examiner	Art Unit	
	Kristie Shingles	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 February 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

In light of Applicant's amendments filed 6/6/2005 with:
Claims 1-3 amended and Claims 4-20 newly added,

Claims 1-20 are hereby pending.

Response to Arguments

1. Applicant's arguments, (see Pre-Appeal Brief Request for Review Remarks, pages 2-4), filed 2/9/2006, with respect to the rejection of claims 1 and 17 under 35 U.S.C. 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground of rejection is made in view of *Redding et al* (US 6,968,384) *Conte et al* (US 5,845,065).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1, 2, 4-6, 8-12, 14 and 17-19** are rejected under 35 U.S.C. 102(e) as being anticipated by *Redding et al* (US 6,968,384).

a. **Per claim 1 and 17 (differ only by statutory class)**, *Redding et al* teach the method for administering a session-based concurrent user licensing agreement on a manufacturing/process control information portal such that a single logon during a session persists across multiple distinct resources to which access is provided via a plant information portal server, the method comprising the steps:

- receiving, by the plant information portal server, an access request for a resource for which a license is required (col.3 line 51-col.4 line 12, col.6 lines 15-26, col.7 lines 49-60; provision for the leader server and the license management program to control license servers);

- invoking, based upon a code within a sequence of commands associated with the requested resource, a license manager associated with restricted resources associated with the plant information portal server, the license manager performing, for the purpose of granting, if needed, one of potentially multiple available session-based concurrent licenses, a set of further steps including (Abstract, col.8 line 33-col.9 line 50, col.11 lines 17-21; license servers are associated with restricted resources and are in communication with the leader server, thereby allowing multiple concurrent client connections to each license server):

- first confirming that an identified source associated with the request needs a concurrent license (col.10 lines 30-39);

- second confirming that a concurrent license is available to assign to the identified source (col.9 lines 2-4, col.11 lines 3-9); and

- adding the identified source to a list of session-based concurrent license users to which a session-based concurrent license is assigned (col.7 line 61-col.8 line 32, col.11 lines 3-16, col.11 line 58-col.12 line 8).

b. **Per claim 2,** *Redding et al* teach the method of claim 1 wherein the second confirming step is based upon a maximum number of allowed concurrently licensed sessions under an established concurrent license agreement maintained by the license manager (col.6 line 36-38, col.11 lines 17-29).

c. **Per claim 4,** *Redding et al* teach the method of claim 1 wherein the first confirming step comprises determining that the identified source does not currently posses one of the session-based concurrent licenses (col.10 lines 42-51).

d. **Claim 18** is substantially similar to claim 4 and is therefore rejected under the same basis.

e. **Per claim 5,** *Redding et al* teach the method of claim 4 wherein the first confirming step is carried out by comparing the identified source of the request with the list of session-based concurrent license users (col.10 lines 42-51).

f. **Per claim 6,** *Redding et al* teach the method of claim 1 further comprising the steps of: allocating a session-based concurrent license to the identified source; and adjusting a concurrent license counter value in accordance with the assigning step (col.9 lines 4-44, col.11 lines 3-16, col.11 line 58-col.12 line 8).

g. **Per claim 8,** *Redding et al* teach the method of claim 1 further comprising the license manager returning an indication of whether a session-based concurrent license has been granted to the identified source of the request (col.9 lines 2-8, col.11 lines 7-9).

h. **Claim 19** is substantially similar to claim 8 and is therefore rejected under the same basis.

i. **Per claim 9,** *Redding et al* teach the method of claim 8 further comprising the steps of: receiving, by an entity that initiated a license request call to the license manager during the invoking step, the indication; and determining, based upon the received indication, whether to grant the access request (col.9 lines 2-8, col.11 lines 7-9).

j. **Per claim 10,** *Redding et al* teach the method of claim 1 wherein the sequence of commands include a conditional test for invoking the license manager (col.6 lines 40-46).

k. **Per claim 11,** *Redding et al* teach the method of claim 10 wherein the conditional test relates to an origin of the access request (col.6 lines 40-46).

l. **Per claim 12,** *Redding et al* teach the method of claim 1 further comprising, maintaining access via the portal server to a set of resources, wherein the invoking step is implemented with regard to the set of resources on an individual resource basis (col.8 line 60-col.9 line 4).

m. **Per claim 14,** *Redding et al* teach the method of claim 1 wherein the code within a sequence of commands associated with the requested resource comprises a function call for invoking a service with which the license manager is associated (col.8 line 33-col.9 line 4).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. **Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over *Redding et al* (US 6,968,384) in view of *Applicant Admitted Prior Art* (*AAPA*).

Per claim 3, *Redding et al* teach the method of claim 1 as applied above, yet fail to explicitly teach a web page provided by the portal server. However, *AAPA* teaches the method

of claim 1 wherein the invoking step is performed in response to an attempt by a particular identified user-session to access portal resources via a web page provided by the portal server (page 2, lines 26-29 and page 3, lines 5-11 and 17-19).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system for controlling the number of concurrent copies of a program in a network based on the number of available licenses of *Redding et al* by accessing portal resources via a web page because one type of portal server function is providing access to users through a web page where the user accesses the site using browser software.

6. **Claims 7, 13, 15 and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Redding et al* (US 6,968,384) in view of *Conte et al* (US 5,845,065).

a. **Per claim 7,** *Redding et al* teach the method of claim 1 as applied above, and provisions commuter authorization licensing so the client can open the protected software program multiple time, including multiple simultaneous instantiations without resorting to the networked license computer (col.12 lines 19-40). Yet *Redding et al* fail to explicitly teach an allocated session-based concurrent license grant, spanning multiple distinct resources accessed via the plant information portal server. However, *Conte et al* teaches the provision of suite licenses that contain multiple distinct applications allowing the licensed user to access all of the applications/resources in the suite (col.2 lines 21-26, col.6 lines 3-15, col.11 lines 44-62).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Redding et al* and *Conte et al* in order to provide licenses that permit access to multiple resources and allow multiple accesses until the

lifetime of the license expires; because doing so permits efficient usage and allocation of resources by grouping applications/resources into to suites to allow users to access more than one resource with a single license.

b. **Per claim 13,** *Redding et al* teach the method of claim 1 further comprising persisting a previous session-based concurrent license grant when a requestor exists a resource associated with an initial grant of the session-based concurrent license (col.11 lines 37-43; *Conte et al*: col.25 lines 14-27).

c. **Per claim 15,** *Conte et al* teach the method of claim 1 further comprising maintaining a historical record of concurrent license usage information (col.22 line 67-col.23 line 11, col.27 lines 13-15).

d. **Claim 20** is substantially similar to claim 15 and is therefore rejected under the same basis.

7. **Claim 16** is rejected under 35 U.S.C. 103(a) as being unpatentable over *Redding et al* (US 6,968,384) and *Conte et al* (US 5,845,065) in view of *Frison et al* (USPN 6,049,789).

Per claim 16, *Redding et al* and *Conte et al* teach the method of claim 15, as applied above, yet fail to explicitly teach the method further comprising displaying the concurrent license usage information via a query result interface. However, *Frison et al* teach collection of license usage data and reports for retrieval and display (col.1 lines 46-61, col.3 line 55-col.4 line 16, col.5 lines 1-51).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Redding et al* and *Conte et al* with *Frison et al*

in order to provide and display license usage data for retrieval and reporting purposes, useful to the maintenance of the license/licensee/licensor management system.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Edelman (6,857,067), Ellis (6,484,257), Staley (6,073,123), Roden et al (6,412,077), Duncan et al (6,163,844).

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie Shingles whose telephone number is 571-272-3888. The examiner can normally be reached on Monday-Friday 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kristie Shingles
Examiner
Art Unit 2141

kds

JASON CARDONE
SUPERVISORY PATENT EXAMINER